

Deficiency Progress Report- Update 1

Received: May 21, 2010

To complete the evaluation process, Cal/EPA requires the CUPAs to submit Deficiency Progress Reports that explain the CUPA's progress towards correcting the identified deficiencies. Deficiency Progress Reports are due every 90 days after the evaluation date until all deficiencies have been corrected.

CUPA: Bakersfield City Fire Department

Evaluation Date: February 23 and 24, 2010

Evaluators:

Cal/EPA: Ernie Genter

OFSM: Jennifer Lorenzo

Date Update 1 submitted: May 21, 2010

Deficiencies corrected with Update 1: 1, 2, 3, and 4

Deficiencies remaining: None

Next Update due date: Not Applicable

Deficiency 1: Although the CUPA is submitting all surcharge funds, they are not transmitting them within the required frequency.

Preliminary Corrective Action(s): By July 31, 2010, the CUPA will transmit the surcharges collected during the fourth fiscal quarter. In addition the CUPA will continue to transmit collected state surcharges quarterly, within 30 days of the end of each state fiscal quarter.

CUPA Corrective Action, (Update 1): A Claim Voucher for the immediate past quarter's Surcharge is attached and the Surcharge amount collected is forthcoming on a regular quarterly basis, as required. (See attached Claim Voucher and Surcharge Submittal Report).

CalEPA Response: *Cal/EPA appreciates the CUPA's prompt actions and considers this deficiency corrected. However, in the future, please use the current Surcharge Transmittal Report 1 form. The current form no longer itemizes the tiered permit program, but does itemize the electronic reporting surcharge. The form can be found at:*

<http://www.calepa.ca.gov/CUPA/Documents/Report1.doc>

Deficiency 2: The CUPA is unable to document that all facilities that received a notice to comply citing minor violations have returned to compliance within 30 days of notification.

Preliminary Corrective Action(s): The CUPA will review and follow its Inspection and Enforcement (I&E) Program Plan. By August 23, 2010, please send examples of RTC or complete follow-up reports for each of the program elements.

CUPA Corrective Action, (Update 1): Examples of four recently completed RTC Forms are also attached. The I & E Plan has been compiled into a single binder to ease annual review which will occur this year prior to June 30, 2010.

CalEPA Response: *Cal/EPA considers this deficiency corrected.*

Deficiency 3: The CUPA has not submitted quarterly inspection or enforcement reports for RCRA LQG's since the third quarter of 2008.

Preliminary Corrective Action(s): By August 1, 2010 the CUPA will submit a LQG report covering activities since September 2008. The CUPA will also ensure that all future LQG reports are submitted to the State quarterly as required.

CUPA Corrective Action, (Update 1): During the CUPA evaluation, it was determined that 10 out of the 11 Large Quantity Generators (LQG) of hazardous waste listed with a "Bakersfield" mailing address were actually located outside of the City limits. The only LQG listed that is within the City of Bakersfield is Pacific Wood Preserving at 5601 District Boulevard. Registration for the Unified Program Data System (UPDS) has now been submitted and a quarterly report will be submitted to UPDS immediately upon completion of the Pacific Wood Preserving LQG inspection which will occur prior to June 30, 2010. (See attached e-mail approval for a user account in UPDS).

DTSC Response: *DTSC considers this deficiency corrected.*

Deficiency 4: The CUPA is not fully implementing its fee accountability program, which is impacting the CUPA's ability to adequately administer the Unified Program (UP) in the City of Bakersfield.

Preliminary Corrective Action(s): Cal/EPA strongly advises the CUPA to change their financial management practices by incorporating UP single fees revenues into a "Special Fund". The establishment of this Special Fund for UP revenues will result in a more efficient and cost-effective operation of the UP in the City of Bakersfield.

By August 24, 2010, the CUPA will report to Cal/EPA the status of their efforts to fully manage and control UP staff resources. This may be accomplished by either

ensuring UP staff positions are filled to perform only UP activities or by adjusting the single fee and fee accountability systems to reflect the allocation of these staff to other non-UP activities.

By August 24, 2010, the CUPA will develop and implement a plan to adequately account for all UP revenues.

CUPA Corrective Action, (Update 1): Prevention Services Division is a combined staff of several positions either fully or partly funded through CUPA fees. CUPA related revenues and expenses are tracked and allocated separately from those that are solely Fire Prevention related. Workloads have recently been reallocated, not only within Prevention Services, but also on a more department-wide basis, utilizing Fire Engine Companies to perform 479 additional CUPA related inspections in Fiscal Year 09-10 due to the reduction in Fire Prevention Services Division inspection staff. (See attached table of additional CUPA inspections per fire station).

In addition, Prevention Services staff has been augmented by as many as 16 light-duty fire personnel over the course of this fiscal year. These light-duty fire personnel have supplanted the displaced CUPA support positions in the performance of those duties during Fiscal Year 09-10.

Effective April 20, 2010, Prevention Services Division has been relocated to Fire Department Headquarters in order to gain additional access to Headquarters support staff from that point forward.

Our new mailing address and location (phone numbers stay the same):

Bakersfield City Fire Department
Prevention Services Division
2101 "H" Street
Bakersfield, CA 93301

1. A "Special Fund" accounting of the additional Engine Company time in performing the 479 additional CUPA related inspections, combined with the light-duty personnel assistance, demonstrates that the Unified Program single fees continue to be used for the sole purpose of funding the necessary and reasonable costs incurred by the City of Bakersfield in the administration of the Unified Program. It is now a different reallocation of staffing resources than has been utilized in prior fiscal years. The single Unified Program fee remains adequate to fund the CUPA activities without adjustment at this time. There has been no fee increase necessary in the past three years. (See attached spreadsheet of Prevention vs. CUPA divisions in the General Ledger).

2. The “*backlog of entering data*” is currently being addressed through the existing use of light duty fire personnel and eventually through Headquarters support staff, as well as utilizing the new, State-wide California Environmental Reporting System (CERS), which enables the regulated businesses to access and update their data online. The CERS on-line availability has now significantly reduced the need for data entry personnel in the Prevention Services Division.

The “*distribution of self-certification information and reminders, online business data (CERS) verification requests and reminders*” has been previously accomplished utilizing an outside mail service vendor (Bakersfield Pre-Sort) to print, stuff envelopes, and bulk mail such correspondence. Utilizing Bakersfield Pre-Sort for turn-key printing and mailing services has significantly reduced the need for clerical services.

The “*fee collection, RTC billing, surcharge processing and submittal to the State*” will be accomplished using existing resources such as light duty fire personnel to telephone regulated businesses concerning delinquent fees, the Prevention Services Director handling RTC compliance and billing requests being forwarded to Finance Department, and the Fire Department Business Manager handling surcharge submittals on a quarterly basis, as required.

The Prevention Services Director will be responsible for “*ensuring critical hazardous materials information is accurate and immediately available to emergency response personnel*” by utilizing both CERS and Bakersfield Pre-Sort as outlined above. All Company Officers and the Hazardous Materials Team will have access to CERS for inspection and emergency response purposes.

The unfilled Inspector positions have had only a temporary effect on productivity, however, reallocation of 479 inspection assignments are currently being made by utilizing the Fire Engine Companies and also the Hazardous Materials Specialist position for the “*identification of new qualified businesses and hazardous waste generator inspections*” and the Fire Prevention Services Director will oversee “*tracking Return to Compliance, violation failure to comply follow up (re-inspections), timely implementation of a graduated series of enforcement (including AEOs), and the overall management of duties assigned to Technical staff.*”

Attachments:

**Claim Voucher for \$34,205.53 and Surcharge Transmittal Report
Spreadsheet of CUPA revenue v. expenses
Table of 479 additional annual Hazardous Waste inspections added
E-Mail acknowledgement of UPDS account status & HWTS data
Examples (4) of completed Return-to-Compliance (RTS) forms**

Memo of April 19, 2010 addressing Observations/Recommendations

CalEPA Response: Cal/EPA appreciates all the CUPA's efforts and considers this deficiency corrected. Cal/EPA recommends that the CUPA continue to track their expenses, including the UP inspections conducted by their engine companies and the assistance by light duty officers.